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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,575	03/27/2006	Scott W. McLellan	McLellan 20	4833
49159	7590	09/25/2008	EXAMINER	
LESTER H. BIRNBAUM 6 OAKMONT COURT SIMPSONVILLE, SC 29681				HERRERA, DIEGO D
ART UNIT		PAPER NUMBER		
2617				
			MAIL DATE	DELIVERY MODE
			09/25/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/573,575	MCLELLAN, SCOTT W.	
	<b>Examiner</b>	<b>Art Unit</b>	
	DIEGO HERRERA	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 27 March 2006.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-16 is/are pending in the application.  
 4a) Of the above claim(s) 6,7,11 and 12 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-5, 8-10, and 13-16 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 27 March 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Priority***

Should applicant desire to obtain the benefit of foreign priority under 35 U.S.C. 119(a)-(d) prior to declaration of an interference, a certified English translation of the foreign application must be submitted in reply to this action. 37 CFR 41.154(b) and 41.202(e).

Failure to provide a certified translation may result in no benefit being accorded for the non-English application.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 3/27/2006 was filed. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Specification***

The abstract of the disclosure does not commence on a separate sheet in accordance with 37 CFR 1.52(b) (4). A new abstract of the disclosure is required and must be presented on a separate sheet, apart from any other text.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: (e.g. "mobile phone handset beacon and GPS locator emergency device").

***Response to Amendment***

Claims 6-7, and 11-12 have been canceled.

Claims 1 and 9 have been amended.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2, 5, 8-10, and 15-16 rejected under 35 U.S.C. 102 (b) as being anticipated by Linnett et al. (US 6771163 B2).

**Regarding claim 1.** Linnett et al. discloses a mobile phone set (abstract, title, fig. 9, col. 6 lines: 4-18, 30-38, teaches a mobile phone set and/or PLB, personal location beacon) comprising:

a personal locator beacon transmitter circuit which transmits a beacon that includes an identification code selected from a serial number and a phone number of the set (abstract, title, fig. 1-9, col. 3 lines: 52-57, col. 4 lines: 41-45, col. 11 lines: 24-30, 31-37, Linnett et al. teaches PLB that transmit information signal); and a microprocessor coupled to the circuit and configured to activate the circuit only when there is no mobile phone service available and the mobile phone user requests emergency service.

**Regarding claim 9.** Linnett et al. discloses a method of requesting emergency service on a mobile phone handset (abstract, title, fig. 9, col. 6 lines: 4-18, 30-38, teaches a mobile phone set and/or PLB, personal location beacon) comprising the steps of: determining if mobile service is available (col. 4 lines: 38-45, col. 6 lines: 30-38, col. 11 lines: 24-30, 31-37, Linnett et al. teaches determining means for use of wireless network communication and/or satellite communication system): and activating a personal locator beacon transmitter circuit in the event that such service is unavailable which circuit transmits a beacon that includes an identification code selected from a serial number and phone number of the handset (abstract, title, fig. 1-9, col. 3 lines: 52-57, col. 4 lines: 41-45, col. 11 lines: 24-30, 31-37, Linnett et al. teaches PLB that transmit information signal with GPS information and information regarding user's subscription so that server can be access with more detailed information about subscriber, hence, providing identification that is concordance with mobile device).

**Consider claim 2.** A phone set according to claim 1, further comprising a global positioning system receiver circuit coupled to the microprocessor, the microprocessor further configured to include location coordinates from the global positioning system receiver circuit with a beacon transmitted by the personal locator circuit (fig. 9, title, abstract, col. 1 lines: 5-17, col. 11 lines: 31-64, Linnett et al. teaches GPS location coordinates sending with the PLB, personal location beacon, through means of a processor unit when in a remote area).

**Consider claim 5.** A phone set according to claim 4, further comprising a microphone

coupled to the personal locator beacon transmitter circuit such that the homing signal includes voice transmission (col. 11 lines: 31-64, col. 11 lines: 65—col. 12 lines: 3, Linnett et al. teaches SAR receiving information such as voice recording of subscriber and with other pertinent data as to the emergency or special considerations).

**Consider claim 8.** A phone set according to claim 1, further comprising a short range transceiver coupled to the personal locator beacon transmitter circuit and the microprocessor such that the locator beacon circuit transmits a beacon that includes emergency information received from the short range transceiver (fig. 9, col. 12 lines: 27-33, Linnett et al. teaches control module controlling communication with external devices such as personal computer via interfaces, wired or wireless or infrared, hence, short-range).

**Consider claim 10.** The method according to claim 9, wherein the transmitter circuit transmits a beacon that includes global positioning system location coordinates (fig. 9, title, abstract, col. 1 lines: 5-17, col. 11 lines: 31-64, Linnett et al. teaches GPS location coordinates with the PLB, personal location beacon).

**Consider claim 15.** The method according to claim 14, wherein voice transmission is included with the homing signal (col. 11 lines: 31-64, col. 11 lines: 65—col. 12 lines: 3, Linnett et al. teaches SAR receiving information such as voice recording of subscriber and with other pertinent data as to the emergency or special considerations).

**Consider claim 16.** The method according to claim 9, wherein the beacon signal includes emergency information received from a short range transceiver located in the handset (fig. 9, col. 12 lines: 27-33, Linnett et al. teaches control module controlling

communication with external devices such as personal computer via interfaces, wired or wireless or infrared, hence, short-range).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 3 and 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Linnett et al. (US 6771163 B2), and further in view of Street (US 6992623 B2).

**Consider claim 3.** A phone set according to claim 1, However, Linnet et al. does not specifically discloses wherein the personal locator beacon circuit transmits a beacon at a frequency of approximately 406 MHz, nevertheless, Street does address the limitation of a radio frequency approximately 406 MHz (title, abstract, fig. 1, col. 2 lines: 19-59, col. 3 lines: 43-48, 51-53, 56-61, 65—col. 4 lines: 2, Street teaches using a beacon

transmitting in approximately 406 MHz and is related to emergency locating beacon with an in-band homing transmitter). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to specifically include the thresholds of the radio frequency of 406 MHz and only approximating around that, as taught by Street for purposes of, or motivated by reducing cost and complexity to the beacon (col. 1 lines: 47-48).

**Consider claim 13.** The method according to claim 9, However, Linnet et al. does not specifically discloses wherein the transmitter circuit transmits a beacon at a frequency of approximately 406 MHz, nevertheless, Street does address the limitation of a radio frequency approximately 406 MHz (title, abstract, fig. 1, col. 2 lines: 19-59, col. 3 lines: 43-48, 51-53, 56-61, 65—col. 4 lines: 2, Street teaches using a beacon transmitting in approximately 406 MHz and is related to emergency locating beacon with an in-band homing transmitter). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to specifically include the thresholds of the radio frequency of 406 MHz and only approximating around that, as taught by Street for purposes of, or motivated by reducing cost and complexity to the beacon (col. 1 lines: 47-48).

**Claims 4 and 14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Linnett et al. (US 6771163 B2), and further in view of Holmes et al. (US 7162395 B1).

**Consider claim 4.** A phone set according to claim 3, However, Linnet et al. does not specifically discloses wherein the personal locator beacon circuit also transmits a homing signal at a frequency selected from approximately 121.5 MHz and 243 MHz; nevertheless, Holmes et al. teaches a system for testing devices functional attributes of having a 121.5 MHz and 243 MHz radio frequency (title, abstract, fig. 6, col. 1 lines: 20-34, 45, col. 2 lines: 61-65, col. 3 lines: 6-12, col. 4 lines: 4-53, col. 5 lines: 14-17, Holmes et al. teaches a PDA or a handheld computing device that is tested for radio frequencies beacon which include 121.5 MHz and 243 MHz and 306 MHz as described in the references these are known frequency signals for distress alert and location data to assist search and rescue operations emitted by distress beacons). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention to include these radio frequencies as taught by Holmes et al. for the purposes of, or motivated by making sure signals coming out of the device are transmitting at said frequencies (col. 1 lines: 26-34, col. 3 lines: 20-53).

**Consider claim 14.** The method according to claim 9, Linnet et al. does not specifically discloses wherein the transmitter circuit transmits a homing signal at a frequency selected from approximately 121.5 MHz and 243 MHz ; nevertheless, Holmes et al. teaches a system for testing devices functional attributes of having a 121.5 MHz and 243 MHz radio frequency (title, abstract, fig. 6, col. 1 lines: 20-34, 45, col. 2 lines: 61-65, col. 3 lines: 6-12, col. 4 lines: 4-53, col. 5 lines: 14-17, Holmes et al. teaches a PDA or a handheld computing device that is tested for radio frequencies beacon which include 121.5 MHz and 243 MHz and 306 MHz as described in the references these are known

frequency signals for distress alert and location data to assist search and rescue operations emitted by distress beacons). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention to include these radio frequencies as taught by Holmes et al. for the purposes of, or motivated by making sure signals coming out of the device are transmitting at said frequencies (col. 1 lines: 26-34, col. 3 lines: 20-53)

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIEGO HERRERA whose telephone number is (571)272-0907. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Diego Herrera/  
Examiner, Art Unit 2617

/Lester Kincaid/  
Supervisory Patent Examiner, Art Unit 2617